



## **COUNCIL CHAMBERS**

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

<b>COUNCIL MEMBERS</b>	<b>REDEVELOPMENT AGENCY</b>
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Mark Grzan, Mayor Pro Tempore	Mark Grzan, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member
Steve Tate, Council Member	Steve Tate, Agency Member

**WEDNESDAY, JULY 19, 2006**

**AGENDA**

**JOINT MEETING**

**CITY COUNCIL REGULAR AND SPECIAL MEETING**

**and**

**REDEVELOPMENT AGENCY REGULAR MEETING**

**6:00 P.M.**

*A Special Meeting of the City Council is Called at 6:00 P.M. for the Purpose of Conducting a Closed Session.*

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**Dennis Kennedy, Mayor**

**CALL TO ORDER**

(Mayor/Chairperson Kennedy)

**ROLL CALL ATTENDANCE**

(City Clerk/Agency Secretary Torrez)

**DECLARATION OF POSTING OF AGENDA**

**Per Government Code 54954.2**

(City Clerk/Agency Secretary Torrez)

**6:00 P.M.**

## ***City Council Action***

### **CLOSED SESSION:**

**1.**

#### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority:	Government Code Section 54956.9(a)
Case Name:	Arcadia Development Company v. City of Morgan Hill
Case Number:	County of Santa Clara No. 1-04-CV-020598.
Attendees:	City Manager; City Attorney; Special Counsel Ellison Folk

### **OPPORTUNITY FOR PUBLIC COMMENT**

### **ADJOURN TO CLOSED SESSION**

### **RECONVENE**

### **CLOSED SESSION ANNOUNCEMENT**

**7:00 P.M.**

### **SILENT INVOCATION**

### **PLEDGE OF ALLEGIANCE**

### **PROCLAMATIONS**

### **RECOGNITIONS**

### **CITY COUNCIL REPORT**

Mayor Pro Tempore Grzan

### **CITY COUNCIL COMMITTEE REPORTS**

### **CITY MANAGER'S REPORT**

### **CITY ATTORNEY'S REPORT**

### **OTHER REPORTS**

**PUBLIC COMMENT**

**NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.**

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME  
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND  
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE  
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY  
COUNCIL/REDEVELOPMENT AGENCY.**

## ***City Council and Redevelopment Agency Action***

### **ADOPTION OF AGENDA**

## ***City Council Action***

### **CONSENT CALENDAR:**

**ITEMS 1-17**                      The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

**Time Estimate**

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**Consent Calendar: 1 - 10 Minutes**

- |    |   |
|----|---|
| 1. | <b><u>DONATION FROM HOSPIRA, INC.</u></b> ..... 1<br><b><u>Recommended Action(s):</u></b><br>1. <b><u>Accept</u></b> the Donation; and<br>2. <b><u>Appropriate</u></b> the Donated Funds in the 2006-2007 Budget.   |
| 2. | <b><u>CENTENNIAL RECREATION CENTER PROJECT – JUNE CONSTRUCTION PROGRESS REPORT</u></b> ..... 5<br><b><u>Recommended Action(s): Information</u></b> only.  |
| 3. | <b><u>NEW LIBRARY PROJECT – JUNE CONSTRUCTION PROGRESS REPORT</u></b> ..... 13<br><b><u>Recommended Action(s): Information</u></b> only.  |
| 4. | <b><u>FOURTH AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF SHUTE, MIHALY, AND WEINBERGER, LLP</u></b> ..... 21<br><b><u>Recommended Action(s): Authorize</u></b> the City Manager to Execute a Fourth Amendment to Agreement with the Law Firm of Shute, Mihaly, and Weinberger, LLP. |

	<b>Time Estimate</b>	<b>Page</b>
	<b>Consent Calendar: 1 - 10 Minutes</b>	
5.	<b><u>SECOND AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF JORGENSEN, SIEGEL, MCCLURE &amp; FLEGEL, LLP</u></b> ..... <b>Recommended Action(s):</b> <b>Authorize</b> the City Manager to Execute a Second Agreement with the Law Firm of Jorgenson, Siegel, McClure & Flegel, LLP.	35
6.	<b><u>FIFTH AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF JORGENSEN, SIEGEL, MCCLURE &amp; FLEGEL, LLP</u></b> ..... <b>Recommended Action(s):</b> <b>Authorize</b> the City Manager to Execute a Fifth Amendment to Agreement with the Law Firm of Jorgenson, Siegel, McClure & Flegel, LLP.	49
7.	<b><u>ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9680, COYOTE ESTATES PHASE 10</u></b> ..... <b>Recommended Action(s):</b> 1. <b>Adopt</b> Resolution Accepting the Subdivision Improvements Included in Tract 9680, Commonly Known as Coyote Estates Phase 10; and 2. <b>Direct</b> the City Clerk to File a Notice of Completion with the County Recorder's Office.	65
8.	<b><u>JUNE 6, 2006 SPECIAL MUNICIPAL ELECTION – CERTIFIED STATEMENT OF ELECTION RESULTS</u></b> ..... <b>Recommended Action(s):</b> <b>Adopt</b> Resolution Reciting the Facts of the Special Municipal Election of June 6, 2006.	71
9.	<b><u>APPROVE WATER METER SOLE SOURCE PURCHASE</u></b> ..... <b>Recommended Action(s):</b> <b>Approve</b> Purchase Order of \$399,300 for Fiscal Year 2006-2007 to Sensus Metering Systems for the Annual Supply of Water Meters, Meter Parts, and MXUs (Radio Transmitters).	79
10.	<b><u>FINAL MAP APPROVAL VIENTO PHASE I (TRACT 9791)</u></b> ..... <b>Recommended Action(s):</b> 1. <b>Approve</b> the Final Map, Subdivision Improvement Agreement and Improvement plans; 2. <b>Authorize</b> the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; Subject to Review by the City Attorney; and 3. <b>Authorize</b> the Recordation of the Final Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.	85
11.	<b><u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 28, 2006</u></b> .....	97
12.	<b><u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 29, 2006</u></b> .....	99
13.	<b><u>ADOPT ORDINANCE NO. 1781, NEW SERIES</u></b> ..... <b>Recommended Action(s):</b> <b>Waive</b> the Reading, and <b>Adopt</b> Ordinance No. 1781, New Series, and <b>Declare</b> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH AN R-1 7,000/RESIDENTIAL PLANNED DEVELOPMENT ON A 9.97 ACRE SITE LOCATED ON THE SOUTH SIDE OF EAST MAIN AVENUE APPROXIMATELY 400 FEET EAST OF THE CALLE MAZATAN/EAST MAIN INTERSECTION. (APN 726-16-028) (ZA-05-05: EAST MAIN-MARRAD).</b>	101

**Time Estimate**

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**Consent Calendar: 1 - 10 Minutes**

14. **ADOPT ORDINANCE NO. 1782, NEW SERIES** .....113  
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1782, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT APPLICATION DA-05-04 FOR APPLICATION MP 04-19: EAST MAIN-THRUST (APN 726-16-028) (DA-05-04: E. Main-Marrad).**
  
15. **ADOPT ORDINANCE NO. 1783, NEW SERIES** .....125  
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1783, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ORDINANCE NO. 835, NEW SERIES, SECTION II A. 2, ELIMINATING THE EXCLUSION OF GROCERY SUPERMARKETS FROM THE LIST OF PERMITTED USES ALLOWED WITHIN THE PORTION OF THE MORGAN HILL BUSINESS PARK ZONED COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD). (ZA-05-30: City of Morgan Hill-Cochrane Plaza).**
  
16. **ADOPT ORDINANCE NO. 1784, NEW SERIES** .....129  
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1784, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1733, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-06: EAST DUNNE-DEMPSEY (DELCO) ALLOWING FOR A THREE MONTH EXTENSION OF TIME FOR COMMENCEMENT OF CONSTRUCTION FOR 8 ALLOCATIONS RECEIVED IN THE 2003 RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) COMPETITION. (APNS 817-11-067 & 817-11-072) (DAA-04-09: E. Dunne-Delco).**
  
17. **ADOPT ORDINANCE NO. 1785, NEW SERIES** .....135  
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1785, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1738, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-22 AND MC-04-13: BARRETT-ODISHOO ALLOWING FOR A FIVE MONTH EXTENSION OF TIME FOR OBTAINING BUILDING PERMITS AND A FOUR MONTH EXTENSION TO COMMENCEMENT OF CONSTRUCTION OF 5 ALLOCATIONS RECEIVED IN THE 2003 RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) COMPETITION. (APN 817-33-003) (DAA-04-05: Barrett-Odishoo).**

## ***Redevelopment Agency Action***

### **CONSENT CALENDAR:**

#### **ITEM 18**

**Time Estimate**

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**Consent Calendar: 1 - 10 Minutes**

18. **AGREEMENT FOR OUTSIDE LEGAL COUNSEL, RICHARDS, WATSON & GERSHON..... 141**  
**Recommended Action(s):** Authorize Executive Director to Execute Consultant Agreement for Legal Services in Fiscal Year 2006-2007 with Richards, Watson & Gershon in the Amount of \$80,000; Subject to Review and Approval by Agency Counsel.

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

#### **ITEM 19**

**Time Estimate**

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**Consent Calendar: 1 - 10 Minutes**

19. **APPROVE JOINT SPECIAL AND REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF JUNE 28, 2006..... 153**

## ***City Council Action***

### **PUBLIC HEARINGS:**

**Time Estimate**

**Page**

20. **10 Minutes** **ZONING AMENDMENT, ZA-05-09/DEVELOPMENT AGREEMENT, DA-05-08: CHURCH-ALCINI.....179**  
Public Hearing Opened.  
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed  
Council Discussion.  
Action- **Approve** Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.  
Action- **Motion to Waive** the Reading in Full of the Zoning Amendment Ordinance.  
Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)  
Action- **Motion to Waive** the Reading in Full of Development Agreement Ordinance.  
Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)

**PUBLIC HEARINGS:**

	<b>Time Estimate</b>		<b>Page</b>
21.	60 Minutes	<b><u>ZONING AMENDMENT AND SITE REVIEW APPLICATIONS, ZAA-03-03/SR-06-03: FOOTHILL-THE INSTITUTE</u></b> .....	257
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <b><u>Adopt</u></b> Environmental Impact Report (EIR) Addendum.	
		Action- <b><u>Motion to Waive</u></b> the First and Second Reading of the Ordinance.	
		Action- <b><u>Motion to Introduce</u></b> Ordinance, Amending a Planned Unit Development Zoning and Precise Development Plan for the Subject Parcels by Title Only. (Roll Call Vote)	
		Action- <b><u>Adopt</u></b> Resolution Approving a Site Review Permit and an Exception to the Underground Utility Requirement.	
22.	20 Minutes	<b><u>GENERAL PLAN AMENDMENT, GPA-01-09: CITY OF MORGAN HILL-ADOPTION OF HOUSING ELEMENT UPDATE</u></b> .....	325
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <b><u>Adopt</u></b> Negative Declaration.	
		Action- <b><u>Adopt</u></b> Resolution.	

## ***City Council Action***

**OTHER BUSINESS:**

	<b>Time Estimate</b>		<b>Page</b>
23.	10 Minutes	<b><u>CITY MANAGER'S AMENDED AND RESTATED EMPLOYMENT AGREEMENT</u></b> .....	485
		<b><u>Recommended Action(s):</u></b>	
		1. <b><u>Approve</u></b> the Amended and Restated Employment Agreement Between the City of Morgan Hill and J. Edward Tewes;	
		2. <b><u>Authorize</u></b> the Mayor to Execute the Agreement on Behalf of the City, Subject to Review and Approval by the City Attorney; and	
		3. <b><u>Appropriate</u></b> an Additional \$9,000 for City Manager's Office Budget.	

**FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

**ADJOURNMENT**

**PUBLIC COMMENTS ON ITEMS *NOT* APPEARING ON AGENDA**

Following the opening of Council/Agency business, the public may present comments on items *NOT* appearing on the agenda that are within the Council's/Agency's jurisdiction. Should your comments require Council/Agency action, your request will be placed on the next appropriate agenda. No Council/Agency discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk/Agency Secretary for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

**PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA**

The Morgan Hill City Council/Redevelopment Agency welcomes comments from all individuals on any agenda item being considered by the City Council/Redevelopment Agency. Please complete a Speaker Card and present it to the City Clerk/Agency Secretary. This will assist the Council/Agency Members in hearing your comments at the appropriate time. Speaker cards are available on the table in the foyer of the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council/Agency. However, it is very helpful to the Council/Agency if speaker cards are submitted. As your name is called by the Mayor/Chairman, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council/Agency Commission are limited to three minutes. We appreciate your cooperation.

**NOTICE**

**AMERICANS WITH DISABILITIES ACT (ADA)**

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City. If you need special assistance to access the meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation. Please make your request at least 48 hours prior to the meeting to enable staff to implement reasonable arrangements to assure accessibility to the meeting.

If assistance is needed regarding any item appearing on the City Council/Agency Commission agenda, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

**NOTICE**

Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council/Agency Commission at, or prior to the Public Hearing on these matters.

**NOTICE**

The time within which judicial review must be sought of the action by the City Council/Agency Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.